

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Case No.: 09-CIV-0192 (SCR)

STACEY HERZLINGER, *on behalf of herself*
and all others similarly situated,

Plaintiff,

-against-

MARK L. NICTER, *et al.*

Defendants.

**OBJECTION TO JANUARY 11, 2010 ORDER
OF MAGISTRATE JUDGE PAUL E. DAVISON
AND REQUEST FOR RESCISSION THEREOF**

PLEASE TAKE NOTICE that the Plaintiff hereby moves this Court, before the Hon. Stephen C. Robinson, for an Order, pursuant to FRCP Rule 72(a), rescinding and setting aside the January 11, 2010 Order and Ruling of Magistrate Judge Paul E. Davison conditions the further deposition of defendant Mark L. Nichter by the Plaintiff upon payment by Plaintiff of Mr. Nichter's attendance expenses. The ground for this Application is that the subject Order and Ruling constitutes an abuse of discretion.

Dated: Stamford, CT
January 25, 2010

LEMBERG & ASSOCIATES LLC
Attorneys for Plaintiff

/s/ Sergei Lemberg

By: _____

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